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HOUSE BILL 871

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PAULINE K. GUBBELS

AN ACT

RELATING TO PUBLIC SECURITIES; AMENDING SECTIONS OF THE NMSA  
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-14-2 NMSA 1978 (being Laws 1970,  
Chapter 10, Section 2, as amended) is amended to read:

"6-14-2. DEFINITIONS. --As used in the Public Securities  
Act:

A. "net effective interest rate" means the interest  
rate ~~[based on the actual price paid to a public body for its]~~  
of public securities, [calculated to maturity according to  
standard tables of bond values] compounded semiannually,  
necessary to discount the scheduled debt service payments of  
principal and interest to the date of the public securities and  
to the price paid to the public body for the public securities.

Underscored material = new  
[bracketed material] = delete

Underscored material = new  
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1 excluding any interest accrued to the date of delivery and based  
2 upon a year with the same number of days as the number of days  
3 for which interest is computed on the public securities;

4 B. "public body" means this state or any department,  
5 board, agency or instrumentality of the state, any county, city,  
6 town, village, school district, other district, educational  
7 institution or any other governmental agency or political  
8 subdivision of the state; and

9 C. "public securities" means any bonds, notes,  
10 warrants or other obligations now or hereafter authorized to be  
11 issued by any public body pursuant to the provisions of any  
12 general or special law enacted by the legislature, but does not  
13 include bonds, notes, warrants or other obligations issued  
14 pursuant to:

- 15 (1) the Industrial Revenue Bond Act;
- 16 (2) the County Improvement District Act;
- 17 (3) Sections 3-33-1 through 3-33-43 NMSA 1978;
- 18 (4) the Pollution Control Revenue Bond Act;
- 19 (5) the County Pollution Control Revenue Bond  
20 Act;
- 21 (6) the County Industrial Revenue Bond Act;
- 22 (7) the Metropolitan Redevelopment Code;
- 23 (8) the Supplemental Municipal Gross Receipts  
24 Tax Act;
- 25 (9) the Hospital Equipment Loan Act; or

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1 (10) the New Mexico Finance Authority Act."

2 Section 2. Section 6-15-5 NMSA 1978 (being Laws 1929,  
3 Chapter 201, Section 3, as amended) is amended to read:

4 "6-15-5. SALE OF BONDS. --

5 A. Except as provided in Subsection B of this  
6 section, before any bonds issued by a municipal corporation are  
7 offered for sale, the corporate authorities issuing the bonds  
8 shall designate the maximum ~~[rate of interest the bonds shall~~  
9 ~~bear and shall designate the maximum]~~ net effective interest  
10 rate the bonds shall bear, which shall not exceed the maximum  
11 permitted by the Public Securities Act. All the bonds shall be  
12 sold at either public or negotiated sale [and] or private sale  
13 to the state of New Mexico.

14 B. If sold at public sale, a notice calling for bids  
15 for the purchase of the bonds shall be published once ~~[a week~~  
16 ~~for two consecutive weeks]~~ in a newspaper having local  
17 circulation or in any financial newspaper or periodical. The  
18 notice shall specify a place and designate a day and hour  
19 subsequent to the date of the publication when sealed bids shall  
20 be received and publicly opened for the purchase of the bonds.  
21 The notice shall specify the maximum ~~[rate of interest the bonds~~  
22 ~~shall bear, the maximum]~~ net effective interest rate permitted  
23 for the bonds and the maximum discount if a discount is allowed  
24 by the governing body and shall require bidders to submit a bid  
25 specifying the lowest rate ~~[or rates]~~ of interest and any

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1 premium or discount if allowed by the governing body at, above  
2 or below par at which the bidder will purchase the bonds. The  
3 bonds shall be sold to the responsible bidder making the best  
4 bid determined by the municipal corporation as set forth in the  
5 notice, subject to the right of the governing body to reject any  
6 and all bids and readvertise or sell the bonds at negotiated  
7 sale or at private sale to the state of New Mexico. All bids  
8 shall be sealed [~~and~~] or sent by facsimile or other electronic  
9 transition to the municipal corporation as set forth in the  
10 notice. Except for the bid of the state of New Mexico if one is  
11 received, all bids shall be accompanied by a deposit of not less  
12 than two percent of the principal amount of the bonds, either in  
13 the form of a financial surety bond or in cash or by cashier's  
14 or treasurer's check of, or by certified check drawn on, a  
15 solvent commercial bank or trust company in the United States,  
16 which deposit shall be returned if the bid is not accepted. The  
17 financial surety bond or the long-term debt obligations of the  
18 issuer, or person guarantying the obligations of the issuer, of  
19 the financial surety bond shall be rated in one of the top two  
20 rating categories of a nationally recognized rating agency,  
21 without regard to any modification of the rating, and the  
22 financial surety bond must be issued by an insurance company  
23 licensed to issue such a bond in New Mexico. If the successful  
24 bidder does not complete the purchase of the bonds within thirty  
25 days following the acceptance of his bid or within ten days

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1 after the bonds are made ready and are offered by the municipal  
2 corporation for delivery, whichever is later, the amount of his  
3 deposit shall be forfeited to the municipal corporation issuing  
4 the bonds, and, in that event, the governing body may accept the  
5 bid of the bidder making the next best bid. If all bids are  
6 rejected, the governing body ~~[shall]~~ may readvertise the bonds  
7 for sale in the same manner as for the original advertisement or  
8 sell the bonds at a negotiated sale or at private sale to the  
9 state of New Mexico. If there are two or more equal bids and  
10 the bids are the best bids received, the governing body shall  
11 determine which bid shall be accepted.

12 ~~[B. Bonds issued by a municipal corporation may be~~  
13 ~~sold to the state at private sale without advertisement]~~

14 C. Except as provided in this section, bonds to be  
15 issued by a municipal corporation for various purposes may be  
16 sold and issued as a single combined issue even though they may  
17 have been authorized by separate votes at an election or  
18 elections. Bonds authorized by any city, town or village for  
19 the construction or purchase of a system for supplying water, a  
20 sanitary sewer system or a storm sewer system may be combined  
21 with each other and sold and issued as a single issue but may  
22 not be combined with bonds to be issued for any other purpose  
23 that may be subject to the debt limitation of Article 9, Section  
24 13 of the constitution of New Mexico. "

25 Section 3. Section 6-15-9 NMSA 1978 (being Laws 1933,

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1 Chapter 114, Section 1, as amended) is amended to read:

2 "6-15-9. BONDS AUTHORIZED AT ELECTION--TIME LIMIT ON  
3 ISSUANCE--EXCEPTIONS.--No bonds shall be issued or sold by any  
4 school district, county or municipality after the expiration of  
5 three years from the date of [~~initiation of proceedings for~~] the  
6 election authorizing the issue, except for the purpose of  
7 refunding previous bond issues or in payment of judgments or if  
8 the issuance of the bonds has been authorized at a regular  
9 election for officers of any such school district, county or  
10 municipality or, where authorized by statute, at a special  
11 election held for that purpose [~~such~~]. The bonds may be sold to  
12 the United States or to the state at private sale or to another  
13 purchaser at a negotiated sale in any case in which the state or  
14 other purchaser has made an offer to purchase the bonds and the  
15 offer was accepted prior to the expiration of the three-year  
16 period. Any period of time when the validity of bonds or the  
17 election therefor is in litigation shall be excluded from the  
18 three-year period."

19 Section 4. Section 6-15-10 NMSA 1978 (being Laws 1933,  
20 Chapter 114, Section 2, as amended) is amended to read:

21 "6-15-10. UNISSUED BONDS AUTHORIZED AT ELECTION--WHEN  
22 VOID--EXCEPTIONS.--In all cases where bond issues by the school  
23 districts, counties or municipalities have been authorized by  
24 special election and the bonds have not been issued and sold  
25 within three years from the date of the [~~initiation of~~

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1 ~~proceedings for the~~ special election authorizing the proposed  
2 issue, the proposed bond issue is void, except where issued for  
3 refunding bonded debt or for payment of judgments against the  
4 district, county or municipality and, except where the issuance  
5 of the bonds has been authorized at a regular election for  
6 officers of any school district, county or municipality or,  
7 where authorized by statute, at a special election held for  
8 those purposes. Such bonds may be sold to the United States or  
9 to the state at private sale or to another purchaser at a  
10 negotiated sale in any case in which the state or other  
11 purchaser has made an offer to purchase the bonds and the offer  
12 was accepted prior to the expiration of the three-year period."

13 Section 5. Section 6-18-6 NMSA 1978 (being Laws 1983,  
14 Chapter 161, Section 6) is amended to read:

15 "6-18-6. SHORT-TERM BONDS. -- A public body may authorize  
16 short-term bonds which provide for any or all of the following  
17 in or pursuant to the bond legislation:

18 A. principal maturities may be for any one or more  
19 periods of two years or less from the respective dates of  
20 issuance;

21 B. interest may be payable on any one or more dates,  
22 or at principal maturity;

23 C. interest may but need not be represented by  
24 coupons;

25 D. the bonds may be in coupon form, in form

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1 registered as to principal or registered as to both principal  
2 and interest, or in book entry form, and provision may be made  
3 for exchange of one form for another;

4 E. the bonds may be in form with stated interest or  
5 in discount form without stated interest, or a combination  
6 thereof;

7 F. the bond legislation may provide for the renewal  
8 or refunding of such bonds, at or before maturity, by the  
9 issuance or successive issuance of renewal or refunding bonds  
10 under that bond legislation without necessity for further act by  
11 the governing body, provided that the maturities of such renewal  
12 or refunding bonds shall not exceed two years from their  
13 respective dates of issuance [~~and no bonds may be issued under  
14 authority of a bond legislation more than three years following  
15 action of the governing body on that bond legislation unless the  
16 governing body further acts to extend such authorization within  
17 three years prior to the issuance of such renewal bonds~~]. In  
18 the bond legislation approved by the governing body, the  
19 governing body may authorize or direct one or more officers of  
20 the public body to:

21 (1) fix the interest rate or rates for each  
22 issue of bonds and renewal or refunding issues, subject to a  
23 maximum rate or rates as a stated interest rate or net effective  
24 interest rate, which maximum shall be set forth in such bond  
25 legislation or determined from time to time in accordance with a

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1 formula, index, data or procedure as provided for in the bond  
2 legislation, provided that, whether or not such a formula,  
3 index, data or procedure is provided for, bond legislation with  
4 respect to indebtedness shall set forth stated maximums of net  
5 effective interest rates;

6 (2) determine the discount for bonds with  
7 stated interest and for bonds without stated interest, subject  
8 to any limitations thereon provided in the bond legislation;

9 (3) fix the date of such bonds, which may be  
10 stated in such bond legislation as the date or dates of issue  
11 and which may be a date on or before the respective date or  
12 dates of issuance;

13 (4) fix the maturity date or dates of such  
14 bonds, which shall be within minimum and maximum periods  
15 described in such bond legislation; and

16 (5) designate the denomination of such bonds,  
17 subject to minimums and integral multiples of stated amounts  
18 provided in such bond legislation;

19 G. the public body may contract with agents or  
20 trustees for services in connection with the issuance, transfer,  
21 exchange, registration, record keeping for and the payment of  
22 such bonds and matters incidental thereto, and the public body  
23 has authority to act under such contracts. Without limiting the  
24 generality of the preceding sentence, such contracts may  
25 provide:

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1                   (1) for the maintenance of a supply of bond forms  
2 with the agent or trustee, which forms bear the facsimile of all  
3 signatures of officers of the public body necessary for the  
4 purpose and, if applicable, the facsimile of the seal of the  
5 public body, contain blanks as to owner, date, maturity,  
6 denomination, interest rates and original issue discount as  
7 appropriate, and provide a form of authentication by the agent  
8 or trustee upon issuance;

9                   (2) for the officer or officers of the public  
10 body, authorized by the governing body to do so, to direct the  
11 agent or trustee with respect to the completion of such blanks  
12 and the delivery of the bonds, by oral, electronic or written  
13 communication prior to the authentication and delivery of such  
14 bonds, and that any such oral or electronic communication  
15 thereafter shall be confirmed in writing; and

16                   (3) for the establishment with the agent or  
17 trustee of funds, in trust, for payment of the principal of and  
18 interest on the bonds and for payments by and on behalf of the  
19 public body into such funds, including payments thereto from the  
20 proceeds of renewal or refunding bonds;

21                   H. the public body may contract with banks or  
22 investment bankers, or others with appropriate capabilities, to  
23 provide services, which may be on an exclusive basis, in the  
24 placement of the bonds with purchasers, or to purchase the  
25 bonds, or both, which contract may provide for all matters

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1 incidental thereto and may be a negotiated contract;

2 I. the public body may covenant, in the bond  
3 legislation, to the holders or owners of the bonds and to the  
4 trustee, if any, for the benefit of such holders and owners,  
5 that it will issue bonds to renew, or fund or refund, the bonds  
6 and any accrued interest thereon, at or before maturity to the  
7 extent not provided for from money otherwise available for the  
8 purpose. In addition to other reductions permitted in the levy  
9 of property taxes for principal or interest on indebtedness,  
10 reduction may be made to the extent that principal or interest  
11 thereon is to be covered by the proceeds of refunding or renewal  
12 bonds;

13 J. in addition to the authority to issue bonds for  
14 such purposes under the Public Securities Short-Term Interest  
15 Rate Act, the public body may, to the extent not prohibited by  
16 the bond legislation, retire or provide for the payment at any  
17 time of the bonds authorized under that act by the issuance of  
18 bonds under authority of any other law consistent with the  
19 maturities and other terms authorized by such laws and without  
20 impediment or other effect thereunder by reason of previously  
21 having issued the bonds under the Public Securities Short-Term  
22 Interest Rate Act, except as stated in Subsection B of Section  
23 [~~10 of that act~~] 6-18-10 NMSA 1978; and

24 K. the provisions of Section [~~7 of the Public~~  
25 ~~Securities Short-Term Interest Rate Act~~] 6-18-7 NMSA 1978 may be

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used with respect to any bonds issued pursuant to this section."

- 12 -

**State of New Mexico**  
**House of Representatives**

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4 FORTY-THIRD LEGISLATURE  
5 FIRST SESSION, 1997  
6  
7

8 February 27, 1997  
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10  
11 Mr. Speaker:  
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13 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
14 been referred  
15

16 HOUSE BILL 871  
17

18 has had it under consideration and reports same with  
19 recommendation that it DO PASS, amended as follows:  
20

21 1. On page 3, line 5, after "A.", strike the remainder of the  
22 line, strike line 6 up to "any" and insert in lieu thereof  
23 "Before".  
24

25 2. On page 3, line 7, before "sale" insert "public".

3. On page 3, line 12, after "at" strike the remainder of the

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line and insert in lieu thereof "public sale or if the bonds cannot be sold at public sale, as provided in Subsection B of this section, then the bonds may be sold at a negotiated sale or private sale".

4. On page 3, line 13, before the period insert "or the United States".

5. On page 3, line 16, before "in", insert "at least one week prior to the date of the sale,".

6. On page 3, line 17, strike the underscored language.

7. On page 3, line 19, strike "sealed".

8. On page 4, line 7, before the period insert "or the United States".

9. On page 4, line 9, strike "transition" and insert in lieu thereof "transmission".

10. On page 4, line 10, before "if" insert "or the United States".

11. On page 5, line 9, before the period insert "or the United States". ,

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**HBIC/HB 871**

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and thence referred to the APPROPRIATIONS AND FINANCE  
COMMI TTEE.

Respectfully submitted,

\_\_\_\_\_  
Fred Luna, Chair man

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chi ef Clerk)

(Chi ef Clerk)

Date \_\_\_\_\_

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FORTY-THIRD LEGISLATURE  
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The roll call vote was 8

   For 0 Against

Yes:           8

Excused: Alwin, Kissner, Lutz, Varela

Absent: Getty

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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March 21, 1997

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10 Mr. President:

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12 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
13 referred

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14

HOUSE BILL 871, as amended

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16

16 has had it under consideration and reports same with  
17 recommendation that it DO PASS, and thence referred to the  
18 FINANCE COMMITTEE.

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20 Respectfully submitted,

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Shannon Robinson, Chairman

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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3 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
4 (Chief Clerk) (Chief Clerk)

5

6

Date \_\_\_\_\_

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9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 No: 0

12 Excused: Adair, Ingle, Smith

13 Absent: None

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FORTY-THIRD LEGISLATURE  
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March 22, 1997

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10 Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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HOUSE BILL 871, as amended

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has had it under consideration and reports same with

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recommendation that it DO PASS.

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Respectfully submitted,

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\_\_\_\_\_  
Ben D. Altamirano, Chairman

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Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

FORTY-THIRD LEGISLATURE  
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1 HBIC/HB 871

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Date \_\_\_\_\_

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The roll call vote was 6 For 0 Against

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Yes: 6

9

No: None

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Excused: Carraro, Eisenstadt, Ingle, Lyons, McKibben

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Absent: None

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